

**BOARD OF ENVIRONMENTAL REVIEW  
AGENDA ITEM  
EXECUTIVE SUMMARY FOR RULE AMENDMENT**

**AGENDA #** \_\_\_\_\_

**AGENDA ITEM SUMMARY** - The Department requests that the Board amend the air quality incorporation by reference rules by incorporating by reference the most current editions of federal regulations and state rules and by making certain other miscellaneous revisions.

**LIST OF AFFECTED RULES** - This rulemaking would amend ARM 17.8.101(41), 102(1), 302(1), 401(1), 801(29), 901(20), and 1005(6).

**AFFECTED PARTIES SUMMARY** - The proposed rule amendments incorporating by reference the current editions of federal regulations and state statutes and rules could affect all parties regulated by the Department under the air quality rules.

**SCOPE OF PROPOSED PROCEEDING** - The Department requests that the Board adopt the proposed amendments to the above-referenced rules as proposed in the Montana Administrative Register, with the additional revisions noted in the attached draft Notice of Amendment.

**BACKGROUND** - Annually, the Department requests that the Board update the rules that incorporate by reference federal and state statutes, rules, and guidance documents. The incorporation by reference process is accomplished by amending the date of the edition of these materials specified in ARM 17.8.102.

In the initial rule notice, the Board also proposed several other amendments related to incorporation of federal regulations. The proposed amendments to ARM 17.8.101(41), 17.8.801(29), and 17.8.901(20) would delete definitions of the phrase "volatile organic compounds (VOC)" that are equivalent to the definition in federal regulations and replace the state rule provisions with incorporations by reference of the federal definition in 40 CFR 51.100(s). These amendments were proposed because the federal definition is frequently revised, requiring the Board to frequently revise its definitions to maintain equivalency. Also, clerical errors have been made in reproducing the lengthy compound names included in the definition.

The proposed amendments to ARM 17.8.302(1)(f) would delete a reference to emission standards contained in the Federal Register notice specified in that rule subsection. This reference will not be necessary if the Board updates the edition of the Code of Federal Regulations incorporated by reference to the 2001 edition, which includes the emission standards.

The Board also proposed amendments to ARM 17.8.401(1) and 17.8.1005(6), to revise incorrect internal references to other state air quality rule provisions. These errors were noted by the U.S. Environmental Protection Agency (EPA) in the final rule published at 66 Federal Register 32545, "Approval and Promulgation of Air Quality Implementation Plans; Montana". After the Board published the notice of proposed amendment, EPA informed the Department that its suggested

revisions were in error. The attached draft Notice of Amendment reflects the correct internal references.

**HEARING INFORMATION** - A hearing in the matter was conducted before Thomas Bowe on March 28, 2002.

**BOARD OPTIONS** - The Board may:

1. Adopt the proposed amendments as set forth in the original Notice of Public Hearing on Proposed Amendment, with the further revisions noted in the attached draft Notice of Amendment;
2. Adopt the proposed amendments with such other changes as the Board finds are appropriate, consistent with the scope of the Notice of Public Hearing on Proposed Amendment and the record in this proceeding; or
3. Decide not to amend the rules.

**DEQ RECOMMENDATION** - The Department recommends that the Board adopt the proposed amendments as set forth in the original Notice of Public Hearing on Proposed Amendment, with the additional revisions noted in the attached draft Notice of Amendment.

**ENCLOSURES** - The following information is attached to this summary:

1. Notice of Public Hearing on Proposed Amendment;
2. Hearing Officer Report; and
3. Draft Notice of Amendment.